

# Notice of Allowability

Application No.

10/715,947

Examiner

Brenda Pham

Applicant(s)

PERKINS ET AL.

Art Unit

2616

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/18/03.
2. ☒ The allowed claim(s) is/are 1-5.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 03/15/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

**BRENDA PHAM  
PRIMARY EXAMINER**

*Brenda H. Pham 5/2/07*

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. The application has been amended as follows:  
  
Claims 6-20 have been canceled.  
  
Claim 1, line 2, "that is capable of" is deleted.
3. Authorization for this examiner's amendment was given in a telephone interview with **Mr. W. Douglas Carothers, Jr., Reg. No. 22,024** on May 01, 2007.

### ***Restriction/Elections***

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-5, drawn to storing and queuing arrangement (buffering ingress/buffering egress), classified in class 370, subclass 429.
  - II. Claims 6-15, drawn to communication of diverse information types (signal protocols having different payload envelopes and payload rates), classified in class 370, subclass 487.
  - III. Claims 16-20, drawn to determination of communication parameters (overhead ration (OHR) determined by the formula), classified in class 370, subclass 252.

5. The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I, Group II and Group III are related as subcombination disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separable usable. See MPEP 806.05(d).

In the instant case, invention I providing a constant line rate between node elements regardless of the client signal payload rates; invention II for handling of different client signal protocols having different payload envelopes and payload rates between node elements in a transmission network; invention III for operating a transmission network asynchronously relative to client signals having a predetermined payload type and where the line rate is the same between node elements of the network regardless of client signal payload type and rate.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP 808.02), restriction for examination purposes as indicated is proper.

6. During a telephone conversation with **Mr. W. Douglas Carothers, Jr., Reg. No. 22,024** on April 28, 2007 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-5. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6-20 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### REASONS FOR ALLOWANCE

7. Claims 1-5 allowed over prior art.
8. The following is an examiner's statement of reasons for allowance: the prior art of record does not teach or fairly suggests in combination method steps of providing a constant line rate between node elements regardless of the client signal payload rates; establishing at a node element an overhead ratio (OHR) between the line rate and an effective payload rate where the effective payload rate is determined from a payload offset size from an actual client signal payload size for a particular client signal payload type; buffering ingress of the client signals at node element where the client signal payload is clocked into the node element at the higher line frequency rate and clocked within the node element at the client signal payload rate; and utilizing the established effective payload rate at the node element to generate the client signal payload clock for clocking the client signals through the node element at the client signal payload rate.
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shen et al (US 2002/0039211 A1) disclose variable rate high-speed input and output in optical communication networks.

Ferolito et al (US 2003/0223448 A1) discloses Flow control in a distributed scalable, shared memory switching fabric system.

Art Unit: 2616

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild, can be reached on (571) 272-2092.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

May 1, 2007  
Brenda Pham